

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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STEPHEN FLANAGAN, as a Trustee of the GENERAL
BUILDING LABORERS' LOCAL 66 PENSION FUND;
STEPHEN FLANAGAN, as a Trustee of the GENERAL
BUILDING LABORERS' LOCAL 66 WELFARE FUND;
STEPHEN FLANAGAN, as a Trustee of the GENERAL
BUILDING LABORERS' LOCAL 66 ANNUITY FUND;
STEPHEN FLANAGAN, as a Trustee of the GENERAL
BUILDING LABORERS' LOCAL 66 LABORERS'
EMPLOYER COOPERATIVE AND EDUCATIONAL TRUST
FUND; STEPHEN FLANAGAN, as a Trustee of the GENERAL
BUILDING LABORERS' LOCAL 66 GREATER NY
LABORERS' EMPLOYER COOPERATIVE AND
EDUCATIONAL TRUST FUND; STEPHEN FLANAGAN, as a
Trustee of the GENERAL BUILDING LABORERS' LOCAL 66
TRAINING PROGRAM; STEPHEN FLANAGAN, as a Trustee
of the GENERAL BUILDING LABORERS' LOCAL 66 NEW
YORK STATE HEALTH AND SAFETY FUND; STEPHEN
FLANAGAN, as a Business Manager of GENERAL
BUILDING LABORERS' LOCAL UNION NO. 66 of the
LABORERS' INTERNATIONAL UNION OF NORTH
AMERICA, AFL-CIO,

Plaintiffs,

-vs.-

AMERICAN PLASTER INC. AND BRIAN KELLY,

Defendants.
-----X

ORDER

10-CV-1867 (ADS) (WDW)

FILED

IN CLERK'S OFFICE
U S DISTRICT COURT E.D.N.Y

★ JUN 02 2011 ★

LONG ISLAND OFFICE

APPEARANCES:

Law Offices of William T. LaVelle, P.C.

Attorneys for the plaintiffs

The LaVelle Building

57 East Main Street

Patchogue, NY 11772

By: Alicia M. Menechino, Esq., Of Counsel

NO APPEARANCE:

American Plaster Inc.

Brian Kelly

SPATT, District Judge.

On November 17, 2010, the Court referred this matter to United States Magistrate Judge William D. Wall for a report and recommendation as to the amount of damages, attorneys' fees, and costs to be awarded following the entry of a default judgment against the Defendants American Plaster Inc. and Brian Kelly. On May 6, 2011, Judge Wall issued a Report recommending that the Court award the plaintiffs unpaid contributions, interest, liquidated damages, and costs totaling \$18,705.00, broken down as follows: (1) \$16,999.64 in unpaid contributions; (2) \$677.68 in interest through November 10, 2010, plus additional interest through the date of entry of judgment; (3) \$677.68 in liquidated damages through November 10, 2010, plus additional liquidated damages through the date of entry of judgment; and (4) \$350 in costs. To date, there have been no objections filed to the Report.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. §636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Wall's Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Wall's Report, it is hereby

ORDERED, that Judge Wall's Report and Recommendation is adopted in its entirety. The Court awards the plaintiffs: (1) \$16,999.64 in unpaid contributions; (2) \$677.68 in interest through November 10, 2010, plus additional interest through the date of entry of judgment; (3) \$677.68 in liquidated damages through November 10, 2010, plus additional liquidated damages

through the date of entry of judgment; and (4) \$350 in costs, for a total award of \$18,705.00, and it is further

ORDERED, that the Clerk of the Court shall enter a judgment for the Plaintiff in the total amount of \$18,705.00 plus interest and liquidated damages accrued between November 10, 2010 and the entry of judgment calculated at a rate of 4% applied on an annual basis and compounded daily, and it is further

ORDERED, that the Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
June 2, 2011

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge